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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1936.

No. 647

FIRST BANK STOCK CORPORATION,
Appellant,

vs.

STATE OF MINNESOTA.

APPEAL FROM THE SUPREME COURT OF THE STATE OF MINNESOTA.

STATEMENT OPPOSING JURISDICTION AND MOTION TO DISMISS OR AFFIRM.

WILLIAM S. ERVIN,
MATTHIAS N. ORFIELD,
FRANK J. WILLIAMS,
Counsel for Appellee.

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IN SUPREME COURT, STATE OF MINNESOTA

1936.

No. 31234

IN THE MATTER OF THE PROCEEDINGS TO ENFORCE DELINQUENT MONEY AND CREDITS TAXES FOR 1934.

STATE OF MINNESOTA,

Respondent,

vs.

FIRST BANK STOCK CORPORATION,

Appellant.

STATEMENT MAKING AGAINST JURISDICTION OF THE SUPREME COURT OF THE UNITED STATES.

Now comes the State of Minnesota, by its counsel of record, and shows:

1. That the question involved in this appeal is whether the State of Minnesota has jurisdiction to tax intangibles owned by appellant which have been given a business situs in that State.

2. The Supreme Court of the State of Minnesota found as facts:

(a) The property taxed consists of shares of stock in Montana and North Dakota State banks.

(b) Appellant First Bank Stock Corporation is a Delaware corporation authorized to transact business and having its principal office in Minnesota.

(c) The stock owned by appellant in the Montana and North Dakota State banks are not held merely for investment. They are not dealt in or traded but were acquired and are owned for the purpose of giving appellant plenary control over the banks. The banks are managed, supervised and periodically examined by Appellant. It selects all their officers and dictates all their policies. Appellant's business is a very important economic unit which, as to headquarters and management, is localized in Minnesota, wherein, also, are many banks, both State and national, which it controls through stock ownership. Its corporate seal is kept at its Minneapolis office. All meetings of its stockholders, board of directors and executive committee are held in Minneapolis or or St. Paul, Minnesota. The certificates for its stocks in subsidiary banks are all kept at the Minneapolis office. Appellant regularly returns for taxation in Minnesota all its taxable money and credits, other than the stock in State banks of other States.

3. The State of Minnesota respectfully contends that appellant's claim of jurisdiction lacks substantiality and that the question presented by the record in this case has been explicitly foreclosed by the following decisions of the Supreme Court of the United States, so as to leave no room for a real controversy:

Hawley v. *Malden,* 232 U. S. 1, 34 S. Ct. 201, 58 L. Ed. 477;

Bristol v. *Washington County,* 177 U. S. 133, 20 S. Ct. 585, 44 L. Ed. 701;

New Orleans v. *Stempel,* 175 U. S. 309, 20 S. Ct. 110, 44 L. Ed. 174;

Metropolitan Life Insurance Co. v. *New Orleans*, 205 U. S. 395, 27 S. Ct. 499, 51 L. Ed. 853;
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Respectfully submitted:

WILLIAM S. ERVIN,
MATTHIAS N. ORFIELD,
FRANK J. WILLIAMS,
Counsel for the State of Minnesota.

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1936

No. 647

IN THE MATTER OF THE PROCEEDINGS TO ENFORCE DELINQUENT MONEY AND CREDITS TAXES FOR 1934

STATE OF MINNESOTA,

Appellee,

vs.

FIRST BANK STOCK CORPORATION,

Appellant.

MOTION OF APPELLEE TO DISMISS THE APPEAL AND TO AFFIRM THE DECISION OF THE SUPREME COURT OF THE STATE OF MINNESOTA.

Comes now the State of Minnesota, the appellee herein, by its counsel, and moves this Court to dismiss, with costs, the appeal taken herein to this Court by First Bank Stock Corporation upon the following ground: That said appeal presents no substantial Federal question for consideration by this Court.

In the alternative appellee moves this Court to affirm the judgment from which said appeal purports to have been taken because, although the record in said cause may show

that this Court has jurisdiction in the premises, yet it is manifest that the questions on which the decision of the cause depends are so unsubstantial as not to need further argument.

In support of said motion to dismiss and in the alternative to affirm appellee respectfully submits the following cases:

Hawley v. *Malden*, 232 U. S. 1, 34 S. Ct. 201, 58 L. Ed. 477;

Bristol v. *Washington County*, 177 U. S. 133, 20 S. Ct. 585, 44 L. Ed. 701;

New Orleans v. *Stempel*, 175 U. S. 301, 20 S. Ct. 110, 44 L. Ed. 174;

Metropolitan Life Insurance Co. v. *New Orleans*, 205 U. S. 395, 27 S. Ct. 499, 51 L. Ed. 853;

DeGanay v. *Lederer*, 250 U. S. 376, 39 S. Ct. 524, 63 L. Ed. 1042;

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